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BANCORPORATION, N.A., dba
7 California Bank & Trust

8
9 **UNITED STATES BANKRUPTCY COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**
11 **SAN JOSE DIVISION**

12 In re
13 EVANDER FRANK KANE,
14
15 Debtor.

Case No. 21-50028-SLJ

Chapter 7

Hon. Stephen L. Johnson

**EX PARTE APPLICATION FOR ORDER
SHORTENING TIME FOR HEARING ON
ZIONS BANCORPORATION, N.A.'S
MOTION TO CONVERT CASE TO
CHAPTER 11 AND TO APPOINT
CHAPTER 11 TRUSTEE**

[B.L.R. 9006-1]

[No hearing required]

1 **TO: THE HONORABLE STEPHEN L. JOHNSON, UNITED STATES**
2 **BANKRUPTCY JUDGE.**

3
4 Creditor Zions Bancorporation, N.A., dba California Bank & Trust (“Zions”) hereby
5 applies to this Court ex parte for issuance of an order shortening time to the hearing on Zions’
6 Motion To Convert Case To Chapter 11 And To Appoint Chapter 11 Trustee (“Motion”). The
7 Application is based on this Ex Parte Application For Order Shortening Time For Hearing On
8 Zions Bancorporation, N.A.’S Motion To Convert Case To Chapter 11 And To Appoint Chapter
9 11 Trustee (“Application”), and the accompanying (1) Stipulation To Shorten Time For Hearing
10 On Zions Bancorporation, N.A.’s Motion To Convert Case To Chapter 11 And To Appoint
11 Chapter 11 Trustee (“Motion”) executed by the legal counsel for Zions and for Debtor Evander
12 Kane (“Kane”) (“Stipulation”); (2) supporting declaration of Michael Gerard Fletcher;
13 (3) [Proposed] Order Granting Application To Shorten Time For Hearing On Zions Bank’s
14 Motion To Convert The Case To Chapter 11 And Appoint A Chapter 11 Trustee. The Application
15 is further based on the files and records of this case, the separately filed Motion, and the following
16 good cause:
17

18 **APPLICATION TO SHORTEN TIME FOR HEARING OF THE MOTION**

19 1. Debtor Kane initiated this chapter 7 proceeding by filing his petition under
20 chapter 7 on January 9, 2021.

21 2. Zions is a creditor of Debtor Kane admittedly owed at least \$4.25 million (*see*
22 *Schedules E/F: Creditors Who Have Unsecured Claims*; Doc. # 1; p. 33 of 73; creditor para. 4.24).
23 Zions intends to file a motion to convert this case to one under chapter 11 pursuant to 11 U.S.C.
24 § 706(b) and to appoint a chapter 11 trustee pursuant to 11 U.S.C. § 1104 (“Zions’ Motion”).

25 3. Kane is a professional hockey player on the roster of the San Jose Sharks. Kane is
26 paid his salary twice monthly under his National Hockey League contract to play professional
27 hockey for the San Jose Sharks (“NHL Contract”).
28

1 4. The Zions' Motion is designed, in large part, to bring into the estate Kane's post-
2 petition salary under the NHL Contract through conversion of this chapter 7 proceeding to
3 chapter 11, and to have a chapter 11 trustee appointed to administer Kane's post-petition salary
4 and other Kane assets that are property of the estate.

5 5. Kane intends to oppose the Zions' Motion.

6 6. Under normal motion practice under the local rules, giving 28-days' notice of the
7 Zions' Motion would require Zions to set the Zions' Motion for hearing on the next available date
8 on the Court's self-calendaring system for chapter 7 motions in the main case, which would be
9 April 6, 2021.

10 7. Having a hearing on April 6, 2021, would allow at least one bi-monthly Kane
11 salary payment in April 2021 to be made under the NHL Contract without the Court having a
12 chance first to consider the Zions' Motion.

13 8. Zions through legal counsel has notified Kane's legal counsel that Zions' intended
14 to ask the Court to advance the hearing on the Zions' Motion so that the Court would hear and
15 consider the Zions' Motion in late March 2021, before any April 2021 salary payments would be
16 due to Kane under the NHL Contract.

17 9. The Parties have met and conferred about Kane opposing the Zions' Motion and
18 the appropriate timing for a hearing on the Zions' Motion, in light of the issues in the pending
19 chapter 7 case and those to be raised in the Zions' Motion, and the schedule of the lawyer for
20 Kane, Stephen D. Finestone, of Finestone Hayes LLP.

21 10. Finestone is scheduled to be out of town on a pre-planned vacation from Thursday,
22 March 11, 2021, through Monday, March 15, 2021, returning on Tuesday, March 16, 2021.

23 11. Zions and Kane have stipulated and agreed to advance the hearing on the Zions'
24 Motion to late March 2021, earlier than the next available hearing date on the Court's self-
25 calendaring system --- April 6, 2021 --- and to request that the Court so order, as otherwise stated
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1 in the Stipulation and in the Proposed form of Order.¹ Copies of the Stipulation and the Proposed
2 form of Order are attached hereto as **Exhibits 1 and 2**, respectively.

3 12. Zions is filing and serving the Zions' Motion contemporaneously with this
4 Stipulation, and will give notice of the hearing date, and opposition and reply dates set by the
5 Court.

6
7 **COMPLIANCE WITH BLR 9006-1**

8 BLR 9006-1 requires explanation of:

- 9 (1) The reason for the particular enlargement or shortening of time requested;
10 (2) Previous time modifications related to the subject of the request, whether by
11 Stipulation or Court order; (3) The effect of the requested time modification on the
12 schedule for the case or proceeding; and (4) Where the request is not made by
13 stipulation, the efforts made to speak with the respondent, and if the movant has
14 spoken with the respondent, the reasons given for any refusal to agree to the
15 request.

16 *This Application is based on a Stipulation with Debtor Kane*, which accompanies this
17 Application. The rationale for this Application is discussed above, concerning the timing of
18 Debtor Kane's professional hockey salary payments and the Zions request to convert the case to
19 chapter 11 so that such salary would be administered as property of the bankruptcy estate. There
20 have been no other requests for shortening time regarding that or the Motion, and shortening time
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22
23 ¹ In the Stipulation, the Parties have recognized that determining a hearing date is in the
24 sound discretion of the Court, and that any change in what would otherwise be the date for hearing
25 of the Zions' Motion would be based on the convenience of the Court and its calendar and
26 schedule. In that regard the Parties state their preferences for the Court to set such a hearing on
27 the Zions' Motion for Monday, March 29, or Tuesday, March 30, or Wednesday, March 31. The
28 Parties would also prefer that the Court (A) set Wednesday, March 17, 2021, as the last day for
Kane (or any other party in interest) to file and serve opposition to the Zions' Motion, and (B) set
Wednesday, March 24, 2021, for Zions to file any reply to any opposition filed by any party in
interest, or (C) such other dates convenient to the Court's calendar, in light of the hearing date set
by the Court.

1 is not expected to have an effect on the schedule for the case, except as to requiring compliance
2 with the requirements for a chapter 11 proceeding.

3 **WHEREFORE**, Zions Bank respectfully request that the Court grant the Application and
4 enter an order shorten time for the hearing on the Motion pursuant to the Stipulation, setting the
5 hearing date, the opposition date, and the reply date pursuant to the Court's discretion.

6
7 DATED: February 25, 2021

Respectfully submitted.

8 FRANDZEL ROBINS BLOOM & CSATO, L.C.
9 MICHAEL GERARD FLETCHER
10 REED S. WADDELL

11 By: /s/ Michael Gerard Fletcher
12 MICHAEL GERARD FLETCHER
13 Attorneys for creditor Zions Bancorporation, N.A.
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EXHIBIT 1

1 Michael Gerard Fletcher, (State Bar No. 070849)
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11 **SAN JOSE DIVISION**

12 In re
13 EVANDER FRANK KANE,
14
15 Debtor.

Case No. 21-50028-SLJ

Chapter 7

Hon. Stephen L. Johnson

**STIPULATION TO SHORTEN TIME
FOR HEARING ON ZIONS
BANCORPORATION, N.A.'S MOTION
TO CONVERT CASE TO CHAPTER 11
AND TO APPOINT CHAPTER 11
TRUSTEE**

[B.L.R. 9006-1]

[No hearing requested]

1 **TO: THE HONORABLE STEPHEN L. JOHNSON, UNITED STATES**
2 **BANKRUPTCY JUDGE.**
3

4 Creditor Zions Bancorporation, N.A., dba California Bank & Trust (“Zions”) and Debtor
5 Evander Kane (“Debtor” or “Kane” and with Zions collectively the “Parties”) through their
6 respective legal counsel of record, hereby stipulate and agree as follows.

7 1. Debtor Kane initiated this chapter 7 proceeding by filing his petition under
8 chapter 7 on January 9, 2021.

9 2. Zions is a creditor of Debtor Kane admittedly owed at least \$4.25 million (*see*
10 *Schedules E/F: Creditors Who Have Unsecured Claims*; Doc. # 1; p. 33 of 73; creditor para. 4.24).
11 Zions intends to file a motion to convert this case to one under chapter 11 pursuant to 11 U.S.C.
12 § 706(b) and to appoint a chapter 11 trustee pursuant to 11 U.S.C. § 1104 (“Zions’ Motion”).

13 3. Kane is a professional hockey player on the roster of the San Jose Sharks. Kane is
14 paid his salary twice monthly under his National Hockey League contract to play professional
15 hockey for the San Jose Sharks (“NHL Contract”).

16 4. The Zions’ Motion is designed, in large part, to bring into the estate Kane’s post-
17 petition salary under the NHL Contract through conversion of this chapter 7 proceeding to
18 chapter 11, and to have a chapter 11 trustee appointed to administer Kane’s post-petition salary
19 and other Kane assets that are property of the estate.

20 5. Kane intends to oppose the Zions’ Motion.

21 6. Under normal motion practice under the local rules, giving 28-days’ notice of the
22 Zions’ Motion would require Zions to set the Zions’ Motion for hearing on the next available date
23 on the Court’s self-calendaring system for chapter 7 motions in the main case, which would be
24 April 6, 2021.

25 7. Having a hearing on April 6, 2021, would allow at least one bi-monthly Kane
26 salary payment in April 2021 to be made under the NHL Contract without the Court having a
27 chance first to consider the Zions’ Motion.
28

1 8. Zions through legal counsel has notified Kane's legal counsel that Zions' intended
2 to ask the Court to advance the hearing on the Zions' Motion so that the Court would hear and
3 consider the Zions' Motion in late March 2021, before any April 2021 salary payments would be
4 due to Kane under the NHL Contract.

5 9. The Parties have met and conferred about Kane opposing the Zions' Motion and
6 the appropriate timing for a hearing on the Zions' Motion, in light of the issues in the pending
7 chapter 7 case and those to be raised in the Zions' Motion, and the schedule of the lawyer for
8 Kane, Stephen D. Finestone, of Finestone Hayes LLP.

9 10. Finestone is scheduled to be out of town on a pre-planned vacation from Thursday,
10 March 11, 2021, through Monday, March 15, 2021, returning on Tuesday, March 16, 2021.

11 11. Zions and Kane hereby stipulate and agree to advance the hearing on the Zions'
12 Motion to late March 2021, earlier than the next available hearing date on the Court's self-
13 calendaring system --- April 6, 2021 --- and to request that the Court so order.

14 12. The Parties recognize that determining a hearing date is in the sound discretion of
15 the Court, and that any change in what would otherwise be the date for hearing of the Zions'
16 Motion would be based on the convenience of the Court and its calendar and schedule. In that
17 regard the Parties *state their preferences* for the Court to set such a hearing on the Zions' Motion
18 for Monday, March 29, or Tuesday, March 30, or Wednesday, March 31.

19 13. The Parties would also prefer that the Court (A) set Wednesday, March 17, 2021,
20 as the last day for Kane (or any other party in interest) to file and serve his opposition to the
21 Zions' Motion, and (B) set Wednesday, March 24, 2021, for Zions to file any reply to the Kane
22 opposition or to that filed by any other party in interest, or (C) such other dates convenient to the
23 Court's calendar, in light of the hearing date set by the Court.

24 14. Zions is filing and serving the Zions' Motion contemporaneously with this
25 Stipulation, and will give notice of the hearing date, and opposition and reply dates set by the
26 Court.
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WHEREFORE, the Parties respectfully request that the Court so order.

IT IS SO STIPULATED.

DATED: February 25, 2021 Respectfully submitted.

FRANDZEL ROBINS BLOOM & CSATO, L.C.
MICHAEL GERARD FLETCHER
REED S. WADDELL

By: /s/ Michael Gerard Fletcher
MICHAEL GERARD FLETCHER
Attorneys for creditor Zions Bancorporation, N.A.

DATED: February 25, 2021 Respectfully submitted.

FINESTONE HAYES LLP

By: Stephen D. Finestone
STEPHEN D. FINESTONE
Attorneys for Debtor Evander Kane

EXHIBIT 2

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Case No. 21-50028- SLJ

Chapter 7

The Hon. Stephen L. Johnson

**ORDER GRANTING EX PARTE
APPLICATION TO SHORTEN TIME
FOR HEARING ON ZIONS BANK'S
MOTION TO CONVERT THE CASE TO
CHAPTER 11 AND APPOINT A
CHAPTER 11 TRUSTEE**

[B.L.R. 9006-1]

[No hearing required]

The Court considered Zions Bank's ("Zions") Ex Parte Application To Shorten Time For Hearing On Zions Bank's Motion To Convert The Case To Chapter 11 And Appoint A Chapter 11 Trustee ("Application"), and the Application's accompanying (1) Stipulation To Shorten Time For Hearing On Zions Bancorporation, N.A.'s Motion To Convert Case To Chapter 11 And To Appoint Chapter 11 Trustee ("Motion") executed by the legal counsel for Zions and for Debtor Evander Kane ("Kane") ("Stipulation"); (2) supporting declaration of Michael Gerard Fletcher; (3) [Proposed] Order Granting Application To Shorten Time For Hearing On Zions Bank's Motion To Convert The Case To Chapter 11 And Appoint A Chapter 11 Trustee. Finding that Zions has also filed with the Court and served on the parties in this case the Motion, and that good cause exists to shorten time on the hearing of the Motion;

IT IS HEREBY ORDERED that:

1. The Application is granted.
2. The Zions Bank Motion To Convert The Case To Chapter 11 And Appoint A Chapter 11 Trustee shall be heard in Courtroom 9 of this Court on _____, 2021, at _____ a.m./p.m. by video or telephone pursuant to this Court's Fourth Amended General Order 38, dated as of September 23, 2020.
3. Written opposition to the Motion shall be filed and served by any party opposing the Motion by _____, 2021. Replies to any oppositions shall be filed and served by _____, 2021.
4. Zions Bank shall give written notice of this Order to the parties in this case on whom Zions served the Motion within 24 hours of it being entered.

*****END OF ORDER*****

Court Service List

ECF Notifications.